

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

(1) DONALD LOVE ALLEN, JR., an)
individual,)
(2) SANDY ALLEN, an individual and,)
(3) SCHELLENBURG ENTERPRISES,)
INC. d/b/a DIAMOND S. TRUCKING, a)
domestic for-profit company,)
Plaintiffs,)
v.)
(1) WILLIAM EDWARD TEMPLEMAN,)
an individual and,)
(2) SAV EXPRESS INC.,)
Defendants.)

Case No. 4:20-cv-00677-JED-JFJ
Creek Cty. Case No.CJ-2020-255

NOTICE OF REMOVAL

Defendant SAV Express Inc. notifies the Court and Plaintiffs Donald Love Allen, Jr., Sandy Allen, and Schellenberg Enterprises, Inc. d/b/a Diamond S. Trucking of removal of this action from the Oklahoma District Court of Creek County to the United States District Court for the Northern District of Oklahoma. Removal of this action is authorized by 28 U.S.C. §§ 1332, 1441, and 1446. In support of its Notice of Removal, SAV Express, Inc. states and alleges the following:

1. The action styled *Donald Allen Love, Jr., an individual, Sandy Allen, an individual, and Schellenburg Enterprises, Inc. d/b/a Diamond S. Trucking, a domestic for profit company, Plaintiffs, v. William Edward Templeman, an individual, and SAV Express Inc.,*

Defendants. Case No. CJ-2020-255, commenced on October 26, 2020 in Creek County District Court.

2. On December 7, 2020, Plaintiffs served SAV Express Inc. with process.
3. On October 18, 2020, before this lawsuit commenced, William Edward Templeman passed away; therefore, he lacked capacity to be sued.
4. In accordance with 28 U.S.C. § 1446(b), SAV Express, Inc. is removing this action within 30 days of being served with process.
5. 28 U.S.C. § 1332 authorizes the Court to exercise original jurisdiction over this case because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the parties are citizens of different states.
6. Plaintiffs' Petition states that they seek damages exceeding \$75,000.00.
7. Plaintiffs Donald Love Allen Jr. and Sandy Allen are domiciled in Oklahoma.
8. Plaintiff Schellenberg Enterprises, Inc. is an Oklahoma corporation with its principal place of business in Oklahoma.
9. Defendant SAV Express Inc. is a Minnesota corporation with its principal place of business in Minnesota.
10. Prior to his death, William Templeman was domiciled in Texas; however, his citizenship for purposes of diversity jurisdiction is irrelevant because he predeceased Plaintiffs filing their lawsuit. *See Round Rock Research LLC v. ASUSTek Comput. Inc.*, 967 F. Supp. 969, 974 (D. Del. 2013) (“[T]he existence of personal

jurisdiction is evaluated at the time the complaint was filed"); *Currier v. Sutherland*, 218 P.3d 709, 714 (Colo. 2009) (en banc) ("A court cannot exercise personal jurisdiction over a deceased person.").

11. Complete diversity of citizenship exists because Plaintiffs are citizens of Oklahoma and Defendant SAV Express, Inc. is a citizen of Minnesota.

12. Because the Court has original jurisdiction, 28 U.S.C. § 1441(a) permits removal of this case to federal court.

13. Copies of all pleadings¹ filed in the State Court action are attached:

Ex. 1: OSCN Docket Summary (Dec. 28, 2020).

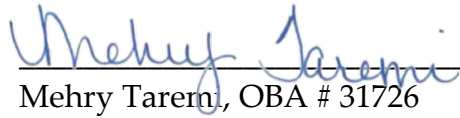
Ex. 2: Petition (Oct. 26, 2020).

14. In compliance with 28 U.S.C. § 1446(d), SAV Express, Inc. will serve the Plaintiffs with written notification of this Notice of Removal and will file a copy with the Court Clerk of Creek County, Oklahoma.

15. Because the Court has the authority to exercise original jurisdiction, SAV Express, Inc. request removal of this action to federal court.

¹ Copies of the summons issued to Defendants on October 26, 2020 are not available from the Creek County Court Clerk and Plaintiffs have not filed proof of service as required by OKLA. STAT. tit. 12, § 2004(G).

Respectfully submitted,


Mehry Taremi, OBA # 31726

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SAV Express Inc.

CERTIFICATE OF SERVICE

I certify that on December 29, 2020 a true and correct copy of Defendant SAV Express Inc.'s Notice of Removal was sent via

- ☒ Email
- ☐ Facsimile
- ☐ USPS, First Class
- ☐ USPS, Certified, Return Receipt Requested
- ☒ USPS, Certified, Return Receipt (Electronic)
- ☐ USPS, Certified, Restricted Delivery

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